

ITEM NO.14

COURT NO.5

SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 8880/2014

J.K.TYRE TYRE AND INDUSTRIES LTD.

Appellant(s)

VERSUS

MICRO AND SMALL ENTERPRISES FACILITATION
 COUNCIL AND ANR.

Respondent(s)

WITH

C.A. No. 8881/2014 (XII)
 (FOR ON IA 25514/2013)
 (FOR CLARIFICATION/DIRECTION ON IA 19592/2018)

C.A. No. 8888/2014 (XII)
 (FOR RECALLING THE COURTS ORDER ON IA 23468/2018)

C.A. No. 8892/2014 (XII)
 FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 24373/2018)
 C.A. No. 8889/2014 (XII)
 (FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 24417/2018)

SLP(C) No. 8854/2015 (XII)
 (FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 24378/2018)

CONMT.PET.(C) No. 818/2018 in C.A. No. 8891/2014 (XII)

CONMT.PET.(C) No. 819/2018 in C.A. No. 8888/2014 (XII)

Date : 24-04-2018 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE KURIAN JOSEPH
 HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR
 HON'BLE MR. JUSTICE NAVIN SINHA

Counsel for the
 parties

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M/S. Khaitan & Co.

Mr. P. Ramesh, AOR
 Mr. M. Yogesh Kanna, AOR

UPON hearing the counsel the Court made the following
 O R D E R

I.A.NO. 19592 OF 2018 IN C. A. NO. 8881 OF 2014

This is an application for withdrawal of 50% of the amount deposited in Court. On 15.01.2018, the following order was passed by this Court :-

"In all these cases where 50% of the awarded amount has not been paid, the same shall be deposited within a period of one month from today. On such deposit, it will be open to the applicant(s) to withdraw the same.

We make it clear that in case there is any admitted deficit of 50% of the amount, the same shall be made up within three weeks from today.

Post after three weeks."

The learned counsel for the respondents points out that in the case of the present applicant, the very same attempt had been turned down twice by this Court and there is no justification for any modification. The learned senior counsel points out that only because of order dated 15.01.2018 in case of similarly situated parties, this application is moved on the ground of parity.

The respondents submit that in case the applicants withdraw the money and succeed in the appeal since there is no surety, it would be difficult to get the money back and that is why, the application for withdrawal is objected.

Having heard the learned counsel appearing on both sides, we are of the view that the interest of both parties can be safeguarded by passing the following order :-

(i) The applicants are permitted to withdraw 50% of the amount in terms of our order dated 15.01.2018, as extracted above, with accrued interest. The amounts, if any already withdrawn, shall be adjusted. We make it clear that the withdrawal, as above, is subject to the result of the civil appeal and subject to further orders in the civil appeal. In case, the appellant succeeds and in case there is an order for direction to refund the amounts already withdrawn, the same shall be done within a period of one month thereafter and if not, the Directors of the company as of now and as on that date shall also be liable to be proceeded in the contempt jurisdiction of this Court.

In view of the above, the interlocutory application is disposed of.

Contempt Petition No. 819 of 2018 in C. A. No. 8888 of 2014,
Contempt Petition No. 818 of 2018 in C. A. No. 8891 of 2014.

We make it clear that the pendency of the civil appeal(s) shall not stand in the way of the applicants in the contempt petition(s) proceeding with the execution that is pending since there is no stay granted by this Court to the applicant(s).

With the above observations, the contempt petitions are disposed of.

Civil Appeal No. 8892 of 2014

As to the dispute over the amount of deposit, the parties may approach Mr. R. Basant, learned senior counsel and mediator.

Post all the matters in the first week of September, 2018.

(JAYANT KUMAR ARORA)
COURT MASTER

(TAPAN KUMAR CHAKRABORTY)
COURT MASTER